

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.4395 of 2012 (O&M)

Date of Decision: 28.02.2018

Pepsu Road Transport Corporation & another

....Appellant (s)

Versus

Tej Kaur & others

Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Aman Sharma, Advocate
for the appellant(s).

Mr. Surinder Garg, Advocate
for respondents no.1 to 4.

Mr. Achin Gupta, Advocate
for respondent no.5.

HARI PAL VERMA, J. (Oral)

The appellant-Corporation has filed the present appeal impugning the award dated 06.12.2011 passed by the Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as “the Tribunal”) in a claim petition filed by the respondent-claimants under Sections 166/140 of the Motor Vehicles Act, 1988 (for short, “the Act”), on account of death of Sarup Singh alias Ram Sarup (since deceased), in a motor vehicular accident.

Brief facts of the case are that on 18.08.2010, Sarup Singh alias Ram Sarup was going on his motorcycle No.PB66-2902 to GGS

Medical College and Hospital, Faridkot to see his sister, who was admitted in that hospital and to give her meals. He was followed by Kapoor Singh son of Bhagwan Singh along with his father Bhagwan Singh on another motorcycle, who were 15-20 karams behind the deceased. At about 9-15 A.M., when Sarup Singh alias Ram Sarup reached just ahead of Mai Godri Sahib, Near Khalsa Dairy, a PRTC bus bearing No.PB11-N-0762, which was being driven by its driver Jaswinder Singh, respondent no.5, in a rash and negligent manner, came from Faridkot side. The driver took the bus to wrong side of the road and struck against the motorcycle of Sarup Singh, as a result of which, he fell down on the road along with his motorcycle and received multiple injuries on various parts of the body. Though respondent-driver stopped for a while, but later on, he fled away from the spot. Sarup Singh was admitted at GGS Medical College and Hospital, Faridkot, where he succumbed to his injuries.

The appellant-claimants filed a claim petition under Sections 166/140 of the Act seeking compensation on account of death of Sarup Singh @ Ram Sarup. The deceased left behind his widow namely Tej Kaur, daughter Ram Piari and old parents.

The Tribunal while considering the monthly income of the deceased as Rs.9,000/- and after making 1/3rd deduction towards 'personal expenses', assessed his monthly income as Rs.6,000/-. A total amount of compensation of Rs.10,89,500/- was granted in favour of the claimants. The findings returned by the Tribunal in its award read as under:-

“15. Next question arises how much amount the claimants are entitled as compensation. Copy of tractor No.PB04D-3490 Ex.A4 reveals that this tractor was owned by Sarup Singh son

of Bhagwan Singh. Copy of Jamabandi for the year 2006-07 Ex.A5 also reveals that Bhagwan Singh father of Ram Sarup has 1/3rd share in 80 Kanal 15 Marla of land. Thus, Ram Sarup was earning money by plying tractor on him. Jamabandi Ex.A5 also reveals that Bhagwan Singh father of Sarup Singh @ Ram Sarup owned 10 kanal 11 Marlas of land. Thus he was assisting his father in agriculture work. Bhagwan Singh had 25 Kanals of land in Village Sandhwan as revealed from Jamabandi Ex.A5. Thus, he was earning money from sowing vegetables also. Ram Sarup himself has land at Village 9 JRK, Hanumangarh. Thus it supports the case of the claimants that he was earning money from agriculture, plying tractor on hire basis as well as by sowing vegetables.

Ram Sarup deceased was 45 years of age at the time of his death. Thus assessing his income as Rs.9000/- and deducting 1/3rd which he would have been spending on himself, his monthly income comes to Rs.6000/- and annual income comes to Rs.72000/-. Applying the multiplier of 15 it comes to Rs.10,80,000/-. Besides this, the claimant No.1 is entitled for Rs.5000/- as loss of consortium, besides Rs.2000/- as funeral expenses and Rs.2500/- as loss of estate. Thus the total compensation amount comes to Rs.10,89,500/-. Respondent no.1 being driver and respondent no.2 and 3 being employer/owner of the bus in question are liable to pay the amount of compensation jointly and severally. Therefore, all the three issues are decided in favour of the claimants and against the respondents.”

Aggrieved from the impugned award dated 06.12.2011, the appellant-Corporation has preferred the present appeal.

Learned counsel for the appellants has argued that there is no evidence to assess the income of the deceased as Rs.9,000/- per month. The deceased was an unskilled worker and at the relevant time, the minimum

wages for unskilled worker were around Rs.4,500/- per month. Thus, in the absence of any evidence that the deceased was earning Rs.9,000/- per month, the Tribunal was required to assess and consider the income of the deceased as an unskilled worker i.e. Rs.4,500/- per month. He has relied upon a judgment of Hon'ble the Apex Court in the case of **State of Haryana and another vs. Jasbir Kaur and others 2003 ACJ 1800** to contend that once no material has been placed before the Court to prove as to how much income the deceased was earning, the Tribunal was required to take into consideration the wages of an unskilled worker.

On the other hand, learned counsel appearing on behalf of the respondents no.1 to 4 - claimants has submitted that the deceased himself was an owner of a tractor. He was earning income by plying tractor and sowing vegetables. His (deceased) father also had 1/3rd share in land measuring 80 kanals and 15 marla, whereas the deceased himself had land at Hanumangarh. Therefore, there is nothing wrong in assessing the income of the deceased as Rs.9,000/- per month. He has further submitted that in view of judgment of Hon'ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009**, the claimants are also entitled for enhancement of compensation under the conventional heads.

I have heard learned counsel for the parties and perused the impugned award.

There is no dispute so far as judgment of Hon'ble the Apex Court, cited by learned counsel for the appellants in the case of **Jasbir Kaur** (*supra*) is concerned. However, in that case, the income of the

deceased was assessed in absence of deceased or his family members owning any land, whereas in the case in hand, the deceased and his father own sufficient land enabling the Tribunal to assess the income of the deceased as Rs.9,000/- per month. In the present case, father of the deceased has 1/3rd share in land measuring 80 Kanal 15 Marla. Similarly, the deceased himself owned land in Village Hanumangarh. It is also the pleaded case of the claimants that the deceased Ram Sarup, who was 45 years of age, was also plying tractor on hire basis and was sowing vegetables. Therefore, taking into consideration all these factors, it cannot be said that the deceased did not have a monthly income of Rs.9,000/-, which hardly comes to Rs.300/- per day.

Thus, this Court does not find any reason to interfere in the findings so recorded by the Tribunal, whereby the income of the deceased was assessed as Rs.9,000/- per month.

However, at the same time, in view of law laid down by Hon'ble the Apex Court in the case of **Pranay Sethi** (*supra*), this Court issues *suo motu* notice to the appellant-Corporation for enhancement of compensation, more particularly when only a nominal amount has been awarded to the claimants under the conventional heads. Deceased Ram Sarup, who was 45 years of age, has left behind a widow, one daughter and old parents. Therefore, this Court finds that the respondent-claimants are entitled for an total additional amount of Rs.60,500/- i.e. Rs.35,000/- towards 'loss of consortium', Rs.13,000/- towards 'funeral expenses' and Rs.12,500/- towards 'loss of estate' over and above the amount of compensation so granted by the Tribunal.

The Tribunal had awarded an amount of Rs.5,000/- towards consortium, Rs.2,000/- towards 'funeral expenses' and Rs.2,500/- towards 'loss of estate', whereas in the judgment in the case of **Pranay Sethi** (*supra*), a total of Rs.70,000/- was awarded under these heads.

With the aforesaid enhancement in the amount of compensation, the present appeal is dismissed.

February 28, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No